

**ORAL ARGUMENT SCHEDULED FOR DECEMBER 9, 2015**

No. 13-17102, 13-17154

**IN THE  
United States Court of Appeals  
For The Ninth Circuit**

---

FACEBOOK, INC.,  
*Plaintiff-Appellee,*

v.

POWER VENTURES, INC.  
&  
STEVEN SURAJ VACHANI, ET AL.,  
*Defendants-Appellants.*

---

Appeal from the United States District Court  
for Northern California  
Case No. 5:08-cv-05780-LHK, The Honorable Lucy Koh

---

**REQUEST FOR EXEMPTION FROM CIRCUIT RULE 46-5**

---

Eric A. Shumsky  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
Columbia Center  
1152 15th Street, N.W.  
Washington, D.C. 20005-1706  
(202) 339-8400

I. Neel Chatterjee  
Brian P. Goldman  
Robert L. Uriarte  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 Marsh Road  
Menlo Park, CA 94025-1015  
(650) 614-7400

*Counsel for Plaintiff-Appellee*

I, Cynthia B. Stein, am a law clerk at the law firm of Orrick, Herrington & Sutcliffe LLP. Orrick represents Plaintiff-Appellee Facebook, Inc. before this Court in the above-captioned appeal.

The notice of appeal in this case was filed on October 23, 2013. Briefing was completed on August 7, 2014. Oral argument is scheduled for December 9, 2015.

From June 2014 until June 2015, I served as a law clerk in the Chambers of Judge Marsha Berzon. During that time, the appeal was not assigned to Judge Berzon, and she did participate in ruling on any motion or other aspect of the case, including making, responding to, or voting on an en banc call. The appeal was still being briefed and then awaiting calendaring during the period of my employment. I had no direct or indirect involvement with this case during my clerkship.

I therefore request that I be exempted from Circuit Rule 46-5 and be permitted to participate in this case. Opposing counsel has not responded to our request for their consent to this application.

Respectfully submitted,

Dated: November 9, 2015

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ Cynthia B. Stein

Cynthia B. Stein

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on November 9, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

*/s/ Eric A. Shumsky*

---

Eric A. Shumsky  
Counsel for Plaintiff-Appellee